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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

TRAYLOR BROS., INC., an Indiana  
corporation doing business as TRAYLOR  
PACIFIC,

Plaintiff,

v.

SAN DIEGO UNIFIED PORT DISTRICT,  
a California public corporation,

Defendants.

Case No. **08 CV 1019 L JMA**

COMPLAINT FOR:

- 1) DAMAGES FOR BREACH OF CONTRACT;
- 2) DAMAGES FOR NEGLIGENCE, BREACH OF IMPLIED WARRANTY OF CONTRACT DOCUMENTS, MISREPRESENTATION/OMISSION OF MATERIAL FACTS;
- 3) DAMAGES FOR VIOLATION OF CALIFORNIA PUBLIC CONTRACT CODE SECTION 7104;
- 4) COMMON COUNTS; AND
- 5) DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

Plaintiff TRAYLOR BROS., INC. alleges as follows:

I.

PARTIES

1. At all relevant times mentioned herein, Plaintiff TRAYLOR BROS., INC., doing business as TRAYLOR PACIFIC, (hereinafter "TRAYLOR PACIFIC") was a corporation

ORIGINAL

## II.

3. TRAYLOR PACIFIC is a citizen of the State of Indiana.

5. The amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000),

6. This Court has jurisdiction over this controversy pursuant to Article III of the United Constitution and Section 1332(a)(1) to Title 28 of the United States Code based upon the complete diversity of citizenship of the parties.

### III.

7. The PORT resides and is subject to personal jurisdiction in the Southern District of California.

8. A substantial part of the events or omissions giving rise to TRAYLOR PACIFIC's claims occurred in the Southern District of California.

9. The property that is the subject of this action is located in the Southern District of California.

10. Venue is proper in the Southern District of California pursuant to Section 1391(a) to Title 28 of the United States Code.

## IV.

## GENERAL ALLEGATIONS

11. On or about April 18, 2005, the PORT let out to bid a construction project involving environmental remediation and related improvements at and around the former Campbell Shipyard site fronting San Diego Bay. In particular, the PORT solicited bids for District Specification No. 2004-21, including Option 1 (District Specification No. 2005-07) and Option 2 (District Specification No. 2004-39), entitled "Sediment Remediation and Aquatic Enhancement, Former Campbell Shipyard Site, San Diego, California" (hereinafter the "Project"). Broadly speaking, the Project involved the demolition and removal of existing piers and launchway structures and other debris and the dredging and disposal of contaminated bay sediment in preparation for the installation of an engineered cap system composed of successive layers of geo-textile fabric, rock, sand, and gravel placed on the bay floor. The purpose of the cap was to encapsulate and contain contaminants remaining buried in the sediment on the bay floor and thereby prevent the release of additional pollution into the environment. The Project also involved the planting of vegetation and the construction of a wildlife habitat in other areas of the bay floor and the repair and reconstruction of the seawall, a mole pier, and other improvements. Option 1 for the Project involved maintenance dredging at Berths 24-10 and 24-11 of the National City Marine Terminal. Option 2 for the Project involved demolition, debris removal, dredging and construction of related improvements associated with the deepening of Berths 10-3 through 10-6 at the Tenth Avenue Marine Terminal (hereinafter "TAMT").

12. In significant part, the Project was intended by the PORT to mitigate and remediate historical soil, sediment and/or water contamination at and around the Project site. The PORT was

1 legally responsible to clean up and abate the contamination pursuant to the order of the State of  
2 California and other governmental orders, regulations and laws. Likewise, the PORT intended the  
3 Project to implement the terms of settlement agreements with various alleged polluters and/or other  
4 responsible parties who had caused, contributed to or were otherwise responsible for the historical  
5 contamination at and around the Project site and to implement a Memorandum of Understanding  
6 between the PORT and a consortium of environmental advocacy groups regarding the appropriate  
7 means and methods of remediating the historical contamination at or around the Project site.

8 13. TRAYLOR PACIFIC submitted the winning bid for the Project, and the PORT  
9 awarded the Project to TRAYLOR PACIFIC. On or about July 28, 2005, TRAYLOR PACIFIC and  
10 the PORT executed a written contract whereby TRAYLOR PACIFIC agreed to provide the labor  
11 and material for the construction of the Project in conformity with the contract documents, including  
12 all applicable permits, specifications and drawings supplied by the PORT, in exchange for the  
13 principal sum of approximately Sixteen Million Dollars (\$16,000,000)(hereinafter the "Contract").  
14 A true and correct copy of the Contract is attached hereto as Exhibit A and incorporated herein by  
15 this reference.

16 14. During the course of the Project, TRAYLOR PACIFIC and the PORT agreed to  
17 several bilateral change orders, the total net effect of which was to increase the overall scope of  
18 TRAYLOR PACIFIC's work required under the Contract and to increase the amount of time by  
19 which TRAYLOR PACIFIC was to complete the work and the compensation due to TRAYLOR  
20 PACIFIC from the PORT. Also during the course of the Project, the PORT issued several unilateral  
21 change orders that purported to change the scope of TRAYLOR PACIFIC's work required under the  
22 Contract; the time by which TRAYLOR PACIFIC was to complete the work; and/or the  
23 compensation due to TRAYLOR PACIFIC from the PORT. TRAYLOR PACIFIC and the PORT  
24 were not able to agree on all the material terms of the unilateral change orders. Additionally, during  
25 the course of the Project, TRAYLOR PACIFIC came to suffer several circumstances and conditions  
26 by which TRAYLOR PACIFIC was entitled to additional time and/or compensation, including for  
27 extra work not required or contemplated under the Contract. The PORT disputed TRAYLOR  
28 PACIFIC's entitlement to additional time and/or compensation. Throughout the Project, and in

1 accordance with TRAYLOR PACIFIC's business practices and the terms of the Contract,  
2 TRAYLOR PACIFIC made good faith efforts to resolve all disputes with the PORT, including  
3 through partnering. Also in accordance with the terms of the Contract, TRAYLOR PACIFIC agreed  
4 formally to mediate its claims and disputes with the PORT. TRAYLOR PACIFIC formally  
5 mediated with the PORT in good faith for over a year; however, TRAYLOR PACIFIC and the  
6 PORT have been unsuccessful in mediating a resolution of the claims and disputes alleged herein.  
7 As of this writing, the mediation continues; however, TRAYLOR PACIFIC anticipates that all  
8 mediation will be suspended, if not terminated, upon the service of the Summons and this Complaint  
9 in this action. Apart from mediation, during the course of the Project, TRAYLOR PACIFIC duly  
10 and timely complied with, or was excused from complying with, the claims procedures set forth in  
11 the Contract with respect to the claims and disputes alleged herein. TRAYLOR PACIFIC duly and  
12 timely submitted certified claims 1 through 17 to the PORT seeking total additional compensation,  
13 after due credit for undisputed portions of unilateral change orders issued by the PORT, in the  
14 principal amount of Twelve Million, Three Hundred Twenty-Four Thousand, Fifty-Two Dollars  
15 (\$12,324,052) and additional time to complete the Project of 337 calendar days — all as described in  
16 the Summary of Damages attached hereto as Exhibit B and incorporated herein by this reference.  
17 Additionally, TRAYLOR PACIFIC disputed, and continues to dispute, the PORT's wrongful  
18 assessment and withholding of liquidated damages. Finally, TRAYLOR PACIFIC disputed, and  
19 continues to dispute, the PORT's wrongful withholding of alleged extra costs associated with alleged  
20 non-conforming work performed by TRAYLOR PACIFIC.

21       15. On or about November 16, 2007, TRAYLOR PACIFIC completed the Project and/or  
22 became entitled to final payment for the work on the Project. On or about December 27, 2007, the  
23 PORT executed and caused to be recorded a Notice of Completion for the Project. On or about  
24 April 22, 2008, TRAYLOR PACIFIC and the PORT executed a Final Release of Claims Agreement  
25 whereby TRAYLOR PACIFIC released the PORT from all claims relative to or by virtue of the  
26 Contract or work performed pursuant to the Contract, except with respect to the claims and disputes  
27 alleged herein, and the PORT unconditionally paid to TRAYLOR PACIFIC the undisputed portion  
28 of the final payment due under the Contract, including retention. The PORT wrongfully withheld

1 from the final payment liquidated damages assessed by the PORT due to alleged delay by  
2 TRAYLOR PACIFIC in completing the Project and alleged extra costs associated with alleged non-  
3 conforming work performed by TRAYLOR PACIFIC. The PORT refused to award TRAYLOR  
4 PACIFIC extra time and additional compensation for the extra work performed by TRAYLOR  
5 PACIFIC to complete the Project.

6 16. On or about April 1, 2008, TRAYLOR PACIFIC duly and timely submitted to the  
7 PORT its 17 claims as claims under the Government Claims Act, California Government Code  
8 sections 900 through 935.8. On or about May 13, 2008, the PORT summarily denied TRAYLOR  
9 PACIFIC's claims under the Government Claims Act.

10 17. TRAYLOR PACIFIC has exhausted, or been excused from exhausting, all conditions  
11 precedent and concurrent to TRAYLOR PACIFIC's right to initiate litigation against the PORT,  
12 including exhausting all administrative and mediation remedies under the Contract and all remedies  
13 under the Government Claims Act.

14 V.

15 FIRST CLAIM FOR RELIEF

16 (Breach of Contract)

17 18. TRAYLOR PACIFIC re-alleges and incorporates by this reference each and every  
18 allegation contained in all preceding paragraphs of this Complaint as though such allegations are set  
19 forth fully herein.

20 19. TRAYLOR PACIFIC performed, or was excused from performing, all of its  
21 obligations under the Contract. All conditions to the PORT's performance obligations under the  
22 Contract have been satisfied.

23 20. The PORT breached the Contract in several respects, including but not limited to:

24 (a) failing and refusing to approve claims and issue change orders providing  
25 TRAYLOR PACIFIC with time extensions and/or additional compensation for the reasonable value  
26 of extra work necessarily performed by TRAYLOR PACIFIC as the result of site conditions  
27 differing from those indicated in the Contract;

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1 (b) failing and refusing to approve claims and issue change orders providing  
2 TRAYLOR PACIFIC with time extensions and/or additional compensation for the reasonable value  
3 of extra work necessarily performed by TRAYLOR PACIFIC as the result of changes in the original  
4 scope of work ordered by the PORT;

5 (c) failing and refusing to approve claims and issue changes orders providing  
6 TRAYLOR PACIFIC with time extensions and/or additional compensation for the reasonable value  
7 of extra work necessarily performed by TRAYLOR PACIFIC as a result of the PORT failing  
8 reasonably to disclose the scope of work performed by others;

9 (d) failing and refusing to issue change orders providing TRAYLOR PACIFIC  
10 with time extensions and/or additional compensation for the reasonable value of extra work  
11 necessarily performed by TRAYLOR PACIFIC as the result of latent defects in the plans and  
12 specifications in the Contract;

13 (e) assessing liquidated damages against TRAYLOR PACIFIC for delays caused  
14 by the PORT;

15 (f) withholding payment from TRAYLOR PACIFIC for work properly  
16 performed within the original scope of the Contract;

17 (g) placing undue restrictions on TRAYLOR PACIFIC's access to the Project  
18 site; failing to honor the PORT's obligations to provide TRAYLOR PACIFIC shared access to the  
19 Project site in order to perform the work; wrongfully evicting, entering onto, and invading  
20 TRAYLOR PACIFIC's right of occupancy of the Project premises; and then denying TRAYLOR  
21 PACIFIC extra time and compensation for the increased effort necessitated by having to perform  
22 such work on the critical path, out of sequence and/or with more expensive means and methods due  
23 to lack of such access;

24 (h) failing and refusing to issue change orders providing TRAYLOR PACIFIC  
25 with time extensions and/or additional compensation for delays and/or suspensions of work ordered  
26 or caused by the PORT in violation of California Public Contract Code section 7102;

27 (i) failing and refusing to issue change orders providing TRAYLOR PACIFIC  
28 with time extensions and/or additional compensation for extra work necessitated by differing site

1 conditions affecting excavation work performed by TRAYLOR PACIFIC at an elevation at least  
2 four feet below the surface upon timely notice from TRAYLOR PACIFIC of the differing site  
3 conditions as required by California Public Contract Code section 7104;

4 (j) forcing TRAYLOR PACIFIC to perform extra work not called for under the  
5 Contract, including under protest, without affording TRAYLOR PACIFIC the time extensions  
6 and/or additional compensation for the reasonable value of the extra work performed under protest  
7 by TRAYLOR PACIFIC;

8 (k) by unreasonably and without good cause conditioning and delaying the final  
9 payment of compensation to TRAYLOR PACIFIC on the performance of work after the work had  
10 been completed and/or the execution of TRAYLOR PACIFIC of a release that was not lawfully  
11 required under the Contract;

12 (l) by engaging in commercial activities with the United States and others at the  
13 TAMT and directing TRAYLOR PACIFIC to cease operations, demobilize, stand-by idle, and  
14 remobilize its equipment so as to cause delay on the Project without compensating TRAYLOR  
15 PACIFIC for the extra time or costs incurred;

16 (m) by failing and refusing to accurately characterize and quantify pay-item  
17 quantities, and thus compensation owing to TRAYLOR PACIFIC, for the debris removed and/or  
18 materials placed on the Project;

19 (n) for altering the scheduling and sequencing for the Project in a manner to cause  
20 delay and extra work for TRAYLOR PACIFIC and then refusing to award TRAYLOR PACIFIC  
21 extra time or compensation therefor;

22 (o) by directing TRAYLOR PACIFIC to perform and document work as extra  
23 work for which TRAYLOR PACIFIC was entitled to extra time and compensation and then denying  
24 that the work was extra and/or that the extra time and compensation was reasonable or otherwise  
25 owing; and

26 (p) by failing to honor agreements between the parties made during the course of  
27 the job, upon which TRAYLOR PACIFIC reasonably relied to its detriment, regarding the amount  
28 and manner for calculating pay-item quantities under the Contract or for extra work.



21. As a direct and proximate result of the PORT's breaches, TRAYLOR PACIFIC has sustained general, special and consequential damages in an amount according to proof at trial. Such damages include, but are not limited to, damages due to property damage, including physical injury to or destruction of tangible property during the Project and/or loss of use thereof during and after the Project.

## VI.

## SECOND CLAIM FOR RELIEF

(Negligence, Breach of Implied Warranty of Contract Documents,  
Misrepresentation/Omission of Material Facts)

22. TRAYLOR PACIFIC re-alleges and incorporates by this reference each and every allegation contained in all preceding paragraphs of this Complaint as though such allegations are set forth fully herein.

23. The PORT drafted, approved and supplied to TRAYLOR PACIFIC the drawings, specifications, and other documents, including all studies and permits, comprising the Contract documents, including any addenda, amendments or changes thereto. In doing so, the PORT owed TRAYLOR PACIFIC a duty to exercise due care and ensure that the Contract documents sufficiently and accurately described the site conditions and the scope of work to be performed by TRAYLOR PACIFIC and others; that the Project was actually, reasonably and commercially practicable to be built as planned; and that changes to the original Contract documents prior to bid submittal were sufficiently clear to alert TRAYLOR PACIFIC regarding the nature and extent of such changes as compared to the original scope of work. The PORT impliedly warranted the fitness and accuracy of the Contract documents in letting the Project out for bid and awarding the Contract to TRAYLOR PACIFIC.

24. The PORT, including through its officers, breached its duty to exercise due care and the implied warranty of fitness and accuracy of the Contract documents in several respects, including but not limited to, the following negligent acts, errors and/or omissions:

a) misrepresenting and/or failing to fully and accurately disclose the nature and extent of the site conditions described in the Contract documents;

1           b)       misrepresenting and/or failing to fully and accurately disclose to TRAYLOR  
2 PACIFIC the nature and scope of work to be performed by others;

3           c)       unreasonably and/or in bad faith purporting to interpret Contract language  
4 and/or resolve ambiguities, including latent ambiguities, in the Contract documents in favor of the  
5 PORT and against TRAYLOR PACIFIC;

6           d)       misrepresenting and/or failing to fully and accurately disclose the nature and  
7 scope of material, latent site conditions which were, or should have been, known to the PORT;

8           e)       misrepresenting and/or failing to fully and accurately disclose limitations and  
9 conditions that materially changed or qualified the scope of the work so as to materially alter the  
10 means and methods available to TRAYLOR PACIFIC to perform the work;

11           f)       placing undue restrictions on TRAYLOR PACIFIC's access to the Project  
12 site; failing to honor the PORT's obligations to provide TRAYLOR PACIFIC shared access to the  
13 Project site in order to perform the work; wrongfully evicting, entering onto, and invading  
14 TRAYLOR PACIFIC's right of occupancy of the Project premises; and then denying TRAYLOR  
15 PACIFIC extra time and compensation for the increased effort necessitated by having to perform  
16 such work out of sequence or with more expensive means and methods due to lack of such access;

17           g)       drafting and supplying Contract documents by which, if followed, the Project  
18 could not actually, reasonably or in a commercially practicable manner be built as planned;

19           h)       providing inadequate, inaccurate or incomplete information and/or failing to  
20 provide adequate, accurate or complete information to its outside design professionals;

21           i)       failing to supervise its outside design professionals; and

22           j)       in approving and supplying the Contract documents to TRAYLOR PACIFIC,  
23 failing to either appreciate or correct the Contract documents to overcome the aforementioned  
24 shortcomings.

25       25.    In breaching its obligations to TRAYLOR PACIFIC, the PORT made  
26 misrepresentations of material fact without believing them to be true or having reasonable ground for  
27 believing them to be true; made misrepresentations and omissions of material fact that were, or  
28 should have been, reasonably known only by the PORT; and omitted or suppressed material facts

1 that qualified and rendered misleading the facts that the PORT otherwise disclosed in the Contract  
2 documents. Had the PORT exercised due care in the drafting and supplying the Contract documents  
3 to TRAYLOR PACIFIC, the PORT would have caused the Contract documents to accurately and  
4 completely reflect the true conditions.

5 26. TRAYLOR PACIFIC, at the time these representations and omissions were made by  
6 the PORT, was ignorant of the true and complete facts. In reasonable reliance on the Contract  
7 documents, TRAYLOR PACIFIC was induced to submit a bid and enter into the Contract. Had  
8 TRAYLOR PACIFIC known the actual and complete facts, TRAYLOR PACIFIC would either have  
9 submitted a bid that was substantially higher in price; would have entered into a contract for  
10 substantially more time and compensation; and/or would have declined to submit a bid or enter into  
11 a contract on the Project.

12 27. As a direct and proximate result of the PORT's breach of its duty to exercise  
13 due care, the implied warranty of fitness and accuracy in the plans and specifications, and  
14 misrepresentations and omissions to TRAYLOR PACIFIC, TRAYLOR PACIFIC sustained general  
15 special, and consequential damages in an amount to be proven at trial. Such damages included, but  
16 were not limited to, damages due to property damage, including physical injury to or destruction of  
17 tangible property during the Project and/or loss of use thereof during and after the Project.

18 VII.

19 THIRD CLAIM FOR RELIEF

20 (Violation of Public Contract Code Section 7104)

21 28. TRAYLOR PACIFIC re-alleges and incorporates by this reference each and every  
22 allegation contained in all preceding paragraphs of this Complaint as though such allegations are set  
23 forth fully herein.

24 29. The Project involved excavations that extended deeper than four feet below the  
25 surface within the meaning of California Public Contract Code section 7104.

26 30. Pursuant to California Public Contract Code section 7104, the PORT was required to  
27 insert, and did insert, a clause in the Contract that, upon notice from TRAYLOR PACIFIC of either  
28 a) subsurface or latent physical site conditions differing from those indicated in the Contract

1 documents; or b) unknown physical conditions at the site of an unusual nature, different materially  
2 from those ordinarily encountered and generally recognized as inherent in work of the character  
3 provided in the Contract, the PORT would promptly investigate the conditions and, if the PORT  
4 found that the conditions did materially differ and cause an increase in TRAYLOR PACIFIC's costs  
5 or time for performance of the work, the PORT would issue a change order extending the time for  
6 TRAYLOR PACIFIC to perform the work and/or compensating TRAYLOR PACIFIC for the extra  
7 costs.

8       31. During the course of the Project, TRAYLOR PACIFIC encountered subsurface or  
9 latent physical site conditions differing from those indicated in the Contract documents and  
10 unknown physical conditions at the site of an unusual nature, different materially from those  
11 ordinarily encountered and generally recognized as inherent in work of the character provided in the  
12 Contract. Such conditions caused TRAYLOR PACIFIC to incur additional time and costs to  
13 perform extra work. TRAYLOR PACIFIC gave the PORT due notice of such conditions.  
14 TRAYLOR PACIFIC thereby afforded the PORT an opportunity to investigate to confirm the  
15 presence of such conditions. TRAYLOR PACIFIC requested that the PORT issue change orders to  
16 extend the time for TRAYLOR PACIFIC to perform the additional time and costs incurred by  
17 TRAYLOR PACIFIC to perform the extra work.

18       32. The PORT breached its obligations under California Public Contract Code section  
19 7104 both by failing: a) to promptly, reasonably and/or in good faith investigate the differing site  
20 conditions after receiving due notice from TRAYLOR PACIFIC; b) to acknowledge the presence of  
21 such conditions entitling TRAYLOR PACIFIC to change orders; and c) to issue change orders to  
22 extend the time for TRAYLOR PACIFIC to perform the extra work and/or compensate TRAYLOR  
23 PACIFIC for the extra costs incurred by TRAYLOR PACIFIC to perform the extra work..

24       33. As a direct and proximate result of the PORT's violation of its contractual and  
25 statutory obligations under California Public Contract Code section 7104, TRAYLOR PACIFIC has  
26 sustained general, special and consequential damages including, but not limited to, expenditure of  
27 additional unplanned labor hours; use of additional unplanned materials and equipment; disruption in  
28 its work; delays in its performance; extended overhead; denial of access to work areas; inefficiencies

1 in performance; productivity loss; rescheduling of manpower; loss of business opportunities; loss of  
2 profits; and property damage, including physical injury to or destruction of tangible property during  
3 the Project and/or loss of use thereof during and after the Project — all according to proof at trial.

4 VIII.

5 FOURTH CLAIM FOR RELIEF

6 (Common Counts — Accounts Stated, Book Accounts,  
7 Money Had and Received, *Quantum Valebant*, *Quantum Meruit*)

8 34. TRAYLOR PACIFIC re-alleges and incorporates by this reference each and every  
9 allegation contained in all preceding Paragraphs of this Complaint as though set forth fully herein.

10 35. Within the last four years, TRAYLOR PACIFIC has, pursuant to a written contract,  
11 provided goods to and performed services for the PORT including the construction of extra work.  
12 There is due and owing by the PORT to TRAYLOR PACIFIC the principal sum of at least Twelve  
13 Million, Three Hundred Twenty-Four Thousand, Fifty-Two Dollars (\$12,324,052) and additional  
14 time to complete the Project of at least 337 calendar days. Additionally, the PORT wrongfully  
15 withheld, and continues to withhold, money due to TRAYLOR PACIFIC for liquidated damages  
16 wrongfully assessed by the PORT for alleged delay by TRAYLOR PACIFIC in completing the  
17 Project and for allegedly non-conforming work performed by TRAYLOR PACIFIC. During the  
18 course of the Project, the PORT and TRAYLOR PACIFIC maintained, in the regular course of  
19 business in a reasonably permanent form and manner, detailed statements which constituted the  
20 principal record of one or more transactions between the parties arising out of the Contract showing  
21 the debits and credits in connection therewith, and against whom and in favor of whom entries were  
22 made.

23 36. TRAYLOR PACIFIC has performed, or been excused from performing, all  
24 obligations under the parties' written Contract. The above sums are reasonable compensation for the  
25 goods supplied and the services rendered to the PORT by TRAYLOR PACIFIC. All conditions to  
26 the PORT's obligation to pay TRAYLOR PACIFIC the sums herein alleged have been satisfied.

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28 ///

1 37. TRAYLOR PACIFIC has made, and hereby makes, demand on the PORT for  
2 payment of the sums alleged herein.

3 38. The PORT has failed and refused, and continues to fail and refuse, to pay to  
4 TRAYLOR PACIFIC the sums due and owing as herein alleged.

5 39. As a direct and proximate result of the PORT's failure and refusal to pay the sums  
6 due and owing as herein alleged TRAYLOR PACIFIC has suffered damages in the principal amount  
7 of at least Twelve Million, Three Hundred Twenty-Four Thousand, Fifty-Two Dollars (\$12,324,052)  
8 according to proof at trial.

9 40. TRAYLOR PACIFIC is entitled to pre-judgment interest at the simple rate of ten  
10 percent *per annum*. Prejudgment interest has accrued, and will continue to accrue, on the principal  
11 sum due until the principal and all accrued interest thereon is paid or judgment is entered, whichever  
12 comes first.

13 IX.

14 DECLARATORY RELIEF

15 (Entitlement to Extra Time/Invalidity of Liquidated Damages Withheld)

16 41. TRAYLOR PACIFIC re-alleges and incorporates by this reference each and every  
17 allegation contained in all preceding Paragraphs of this Complaint as though set forth fully herein.

18 42. An actual controversy within the Court's jurisdiction under Section 2201 to Title 28  
19 of the United States Code has arisen and now exists between TRAYLOR PACIFIC and the PORT as  
20 to the time which TRAYLOR PACIFIC was entitled to be awarded to complete the Project and  
21 whether TRAYLOR PACIFIC delayed completion of the Project such that the PORT was entitled to  
22 assess and/or withhold liquidated damages from TRAYLOR PACIFIC.

23 43. TRAYLOR PACIFIC contends that its was entitled to additional time of at least 337  
24 calendar days to complete the Project; that TRAYLOR PACIFIC timely completed the Project; and  
25 that the PORT was not entitled to assess or withhold liquidated damages from TRAYLOR PACIFIC.  
26 The PORT disagrees with TRAYLOR PACIFIC's contentions and contends that TRAYLOR  
27 PACIFIC was not entitled to any additional time to complete the Project; that TRAYLOR PACIFIC

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1 failed timely to complete the Project; and that the PORT was entitled to assess and withhold, and did  
2 assess and withhold, from TRAYLOR PACIFIC liquidated damages.

3 44. TRAYLOR PACIFIC desires a judicial determination and declaration: a) that  
4 TRAYLOR PACIFIC was entitled to additional time of at least 337 calendar days to complete the  
5 Project, including for the extra work performed by TRAYLOR PACIFIC; b) that TRAYLOR  
6 PACIFIC timely completed the Project or was excused from timely completing the Project; c) that  
7 the PORT was not entitled to assess and/or withhold liquidated damages from TRAYLOR PACIFIC;  
8 and d) that the PORT must reimburse to TRAYLOR PACIFIC all liquidated damages assessed and  
9 withheld from TRAYLOR PACIFIC, with prejudgment interest thereon until paid.

10 45. A judicial declaration is necessary and appropriate at this time under the  
11 circumstances so that the parties can ascertain their respective rights; so that TRAYLOR PACIFIC  
12 will be justly compensated, and the PORT not unjustly enriched, for the work that TRAYLOR  
13 PACIFIC performed in timely completing the Project; and so that TRAYLOR PACIFIC can avoid  
14 any obligation to report the liquidate damages assessed by the PORT in pre-qualifying or qualifying  
15 for other projects, including public works projects.

16 X.

17 PRAYER FOR RELIEF

18 WHEREFORE, TRAYLOR PACIFIC requests that judgment be entered in favor of  
19 TRAYLOR PACIFIC and against the PORT as follows:

- 20 1. As and for the First Claim for Relief for Breach of Contract:
- 21 (a) General, special, and consequential damages all according to proof at trial;
- 22 (b) A judicial declaration that TRAYLOR PACIFIC was entitled to additional  
23 time to complete the Project in an amount according to proof at trial;
- 24 (c) Prejudgment interest at the annual rate of ten percent as permitted by law;
- 25 (d) Costs of suit;
- 26 (e) Damages pursuant to California Public Contract Code section 7104 according  
27 to proof at trial, and
- 28 (f) Such other and further relief as the Court deems just and proper.

1           2.       As and for the Second Claim for Relief for Negligence, Breach of Implied Warranty  
2 of Contract Documents, and Misrepresentation/Omission of Material Facts:

- 3                   (a)     General, special, and consequential damages all according to proof at trial;  
4                   (b)     A judicial declaration that TRAYLOR PACIFIC was entitled to additional  
5 time to complete the Project in an amount according to proof at trial;  
6                   (c)     Prejudgment interest at the annual rate of ten percent as permitted by law;  
7                   (d)     Costs of suit; and  
8                   (e)     Such other and further relief as the Court deems just and proper.

9  
10           3.       As and for the Third Claim for Relief for Violation of Public Contract Code Section  
11 7104:

- 12                   (a)     General, special, and consequential damages all according to proof at trial;  
13                   (b)     A judicial declaration that TRAYLOR PACIFIC was entitled to additional  
14 time to complete the Project in an amount according to proof at trial;  
15                   (c)     Prejudgment interest at the annual rate of ten percent as permitted by law;  
16                   (d)     Costs of suit; and  
17                   (e)     Such other and further relief as the Court deems just and proper.

18  
19           4.       As and for the Fourth Claim for Relief for Common Counts:

- 20                   (a)     General, special, and consequential damages in the principal sum of at least  
21 Twelve Million, Three Hundred Twenty-Four Thousand, Fifty-Two Dollars (\$12,324,052) all  
22 according to proof at trial;  
23                   (b)     Prejudgment interest at the annual rate of ten percent as permitted by law;  
24                   (c)     Costs of suit; and  
25                   (d)     Such other and further relief as the Court deems just and proper.

26 ///

27 ///

28 ///

5. As and for the Fifth Claim for Relief for Declaratory Relief:

(a) A judicial determination and declaration:

i) that TRAYLOR PACIFIC was entitled to additional time of at least 337 calendar days to complete the Project, including the extra work performed by TRAYLOR PACIFIC;

ii) that TRAYLOR PACIFIC timely completed the Project or was excused from timely completing the Project;

iii) that the PORT was not entitled to assess and/or withhold liquidated damages from TRAYLOR PACIFIC; and/or

iv) that the PORT must reimburse to TRAYLOR PACIFIC all liquidated damages assessed and withheld from TRAYLOR PACIFIC, with prejudgment interest thereon until paid at the annual rate of ten percent as permitted by law.

(b) Costs of suit; and

(c) Such other and further relief as the Court deems just and proper.

XI.

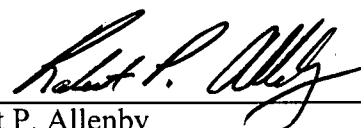
DEMAND FOR JURY TRIAL

TRAYLOR PACIFIC demands a trial by jury on all claims for relief for which a right to trial by jury exists.

Dated: June 10, 2008

SULLIVAN, HILL, LEWIN, REZ & ENGEL  
A Professional Law Corporation

By:

  
Robert P. Allenby  
James E. Drummond  
David B. Hopkins  
Sean M. Gaffney  
Attorneys for Plaintiff  
TRAYLOR PACIFIC BROS., INC.



## CONTRACT

At San Diego, California, this 28th day of July, 2005, the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation in the County of San Diego, State of California ("District") and TRAYLOR BROS., INC. DBA TRAYLOR PACIFIC (Contractor") hereby agree:

1. This Contract includes the attached Notice Inviting Bids, Instructions to Bidders, Bonds, Proposals, all documents in the Bid Proposal Package submitted by the Bidder, Schedule, General Conditions, Special Conditions, Specifications, Drawings and Addenda, if any, and the Plans, Specifications, Special Provisions and drawings filed with the District Clerk as Document No. 48755 and such other incorporated writings, all of which are by this reference incorporated herein and made a part hereof.

2. Contractor shall perform and be bound by all of the terms and conditions of this Contract, shall perform the work in strict conformity with the Contract and shall perform and complete the work in a good and workmanlike manner:

SEDIMENT REMEDIATION AND AQUATIC ENHANCEMENT, FORMER  
CAMPBELL SHIPYARD SITE, SAN DIEGO, CALIFORNIA, INCLUDING  
ADDENDUM NOS. 1 THROUGH 6

3. In the absence of damages incurred by the District, the District's legal inability to pay based on legally asserted claims of third parties, and/or the District's exercise of its rights of offset, District shall pay to Contractor the prices set forth in the attached Bid Schedule at the times and in the manner and with such additions or deductions as are provided for in this Contract and Contractor shall accept such payment in full satisfaction of all claims incident to such performance.

4. The District or any department, board, officer or employee shall not be liable for any portion of the Contract price or for any of the work performed by Contractor under this Contract and it is further understood and agreed that the District's liability is limited and confined as imposed by law.

5. This Contract is executed and entered into in the County of San Diego, State of California, and the obligations under this Contract are incurred and shall be performed and executed in said County.

# EXHIBIT A

6. Contractor shall commence work as required by the Contract, shall prosecute the work diligently, and shall complete it within the time limit fixed in the specifications. Time is of the essence of this Contract.

APPROVED AS TO FORM AND LEGALITY: SAN DIEGO UNIFIED PORT DISTRICT

August 2, 2005.

By: Charles A. (Tony) Heinrichs  
Charles A. (Tony) Heinrichs  
Senior Director, Facilities/Chief  
Engineer

TRAYLOR BROS., INC. DBA  
TRAYLOR PACIFIC  
Contractor

Port Attorney

By: David Cataturo  
DEPUTY PORT ATTORNEY

License No.: 762513

By: C. John Meagher  
Signature  
C. John Meagher  
Vice President  
(Type or print Signatory's name and title)

Contractors are required by law to be licensed and regulated by the Contractor's State License Board which has jurisdiction to investigate complaints against Contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the Registrar, Contractor's State License Board, P.O. Box 26000, Sacramento, California 95826.





4/1/2008

**Sediment Remediation and Aquatic Enhancement Former Campbell Shipyard**

Project No. P1806-2, Option 1 P2035-1, Option 2 P1355-2

Specification No. 2004-2, Option 1 2005-07, Option 2 2004-39

**Summary of Damages**

Claim No.	Description	Delay Days (Cal Days)	Amount
1	Shipways Demolition In Recon Demo Area	22	\$ 513,390
2	Timber Piles South of Mole Pier	35	\$ 952,485
3	Military Load Out at TAMT		\$ 86,202
4	Additional Debris Removal (Part I & Part 2)		\$ 296,309
	Additional Debris Removal Part 1	12	\$ 319,543
	Additional Debris Removal Part 2 (Sunday Work)	1	\$ 131,958
	Credit for Change Order #5		\$ (60,000)
	Credit for Unilateral Change Order #11	-12	\$ (95,192)
5	Tenth Avenue Marine Terminal Concrete Overpour		\$ 1,917,402
	Credit for Unilateral Change Order #13	0	\$ (21,250)
	Credit Against TAMT Overpour Request For Contract Item Payments Made By Port		\$ (249,250)
6	Navy Ship Delay at Campbell	1	\$ 14,741
	Credit for Unilateral Change Order #18	-1	\$ -
7	Unilateral change order #19; deduction of base cap from bid item #6.	0	\$ 132,789
	Credit for Unilateral Change Order #26 (Partial; item 26)	0	\$ (14,114)
8	Change in character to revetment placement.	8	\$ 160,389
9	Additional Foundation Rock South of Mole Pier	2	\$ 107,817
	Credit for Payment made under the contract bid item		\$ (45,399)
10	Temporary Shutdown at TAMT, 2nd time		\$ 50,361
11	Encroachment of 60 foot Shared Access	4	\$ 52,920
12	Revised Concrete Cap at Sheet Pile Wall	0	\$ 16,462
13	Revetment placement adjacent to replaced precast wall segments.	4	\$ 78,758
14	Revised Concrete Cap and Slab At Mole Pier	0	\$ 28,446
15	Stockpile Area Clean Up	0	\$ 54,678
16	Debit for Deducting Cost to Correct Seawall Elevation (UCO #26; Partial, item 24)	0	\$ 14,091
17	Additional Dredging And Capping Work (Including Impacts)	261	\$ 8,433,897
	Credit for Unilateral Change Order #26 (Partial; item 23&25)	0	\$ (257,071)
	Interest Due thru 04/01/2008 @ 10%		\$ 1,498,465
	<b>Additional Time &amp; Compensation Due</b>	<b>337</b>	<b>\$ 13,822,517</b>

**Notes:**

The highlighted items are protested unilateral change orders that the port included in the final payment.

The daily interest on \$12,324,052 is \$3,376.45. ( $\$12,324,052.00 \times 10\%/yr. = \$1,232,405.00/yr.$ ; $\$1,232,052.00/yr. + 365 \text{ days}/yr. = \$3,376.45/\text{day}$ ).**EXHIBIT B**

4/1/2008

**Sediment Remediation and Aquatic Enhancement Former Campbell Shipyard**

Project No: P1806-2, Option 1 P2035-1, Option 2 P1355-2

Specification No. 2004-2, Option 1 2005-07, Option 2 2004-39

**Summary of Damages**

In addition to the additional time and compensation set forth above in connection with Claims 1 through 17 summarized above, Traylor Pacific seeks a determination that Traylor Pacific did not cause any delay on the Project and/or that the District was not entitled to assess or withhold any liquidated damages. Accordingly, Traylor Pacific requests that the District release the principal amount of \$417,000 in liquidated damages withheld by the District from Traylor Pacific. Additionally, Traylor Pacific is entitled to prejudgment interest at the simple rate of ten (10) percent per annum on the principal amount of each assessment of liquidated damages withheld from Traylor Pacific from the date of each assessment until paid. The total amount of prejudgment interest accrued through the date of this claim, April 01, 2008, is \$30,114.79. Prejudgment interest will continue to accrue thereafter at the daily rate of \$114.25.

<b>Summary of Liquidated Damages Withheld to Date</b>		
<b>Date Withheld</b>	<b>Principal Withheld</b>	<b>Accrued Interest thru 4/01/08</b>
1/1/2007	\$ 66,000	\$ 8,245
2/1/2007	\$ 31,000	\$ 3,610
3/1/2007	\$ 6,000	\$ 653
7/1/2007	\$ 120,000	\$ 9,041
8/1/2007	\$ 30,000	\$ 2,005
9/1/2007	\$ 31,000	\$ 1,809
10/1/2007	\$ 31,000	\$ 1,554
11/1/2007	\$ 30,000	\$ 1,249
12/1/2007	\$ 30,000	\$ 1,003
1/1/2008	\$ 30,000	\$ 748
2/1/2008	\$ 12,000	\$ 197
<b>Total</b>	<b>\$ 417,000</b>	<b>\$ 30,115</b>

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

TRAYLOR BROS., INC., an Indiana corporation doing business as TRAYLOR PACIFIC

## DEFENDANTS

SAN DIEGO UNIFIED PORT DISTRICT, a California public corporation

08 JUN -6 PM 3: 08

'08 CV 1019 L JMA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Vanderburgh, IN  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego, CA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert P. Allenby, Esq. (SBN 156926)  
Sullivan, Hill, Lewin, Rez & Engel APLC  
550 West "C" Street, Fifteenth Floor  
San Diego, California 92101  
(619) 233-4100

## ATTORNEYS (IF KNOWN)

Neal S. Meyers, Esq. (SBN 109625)  
Daley & Heft, LLP  
462 Stevens Avenue, Suite 201  
Solana Beach, California 92075  
(858) 755-5666

## II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only) (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PT                         | DEF                        |   | PT                                    | DEF                                   |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4            | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

## IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Breach of Public Works Contract; 28 U.S.C. § 1332(a)(1)(diversity)

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions		

## VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removal from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 13,000,000

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_

Docket Number \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 19, 2008

Sullivan, Hill, Lewin, Rez & Engel by Robert P. Allenby

TAC # 151703 6/6/08 \$350

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 151703 - TC  
\* \* C O P Y \* \*  
June 06, 2008  
15:12:19**

**Civ Fil Non-Pris**

USAO #: 08CV1019

Judge.: M. JAMES LORENZ

Amount.: \$350.00 CK

Check#: BC48544

**Total-> \$350.00**

FROM: TRAYLOR BROS., INC.  
DBA TRAYLOR PACIFIC VS.  
SAN DIEGO UNIFIED PORT DIST.